BEFORE THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

through his mother,		
Petitioners,)	
v. HICKMAN MILLS C-1 SCHOOL DISTRICT,)	
- Respondent.)	

PANEL'S DECISION AND ORDER ON RESPONDENT HICKMAN MILLS C-1 SCHOOL DISTRICT'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT AND SUGGESTION IN SUPPORT

After due consideration of Respondent's Motion and oral argument by the parties it is the . unanimous decision of the Panel that the Motion he granted and the Request for Due Process be dismissed.

Pursuant to R. S. Mo. 536.100 Petitioners have thirty (30) days from the date of this Order to appeal the decision of the Panel to any state court of competent jurisdiction..

Signed this 14th day of September, 2000 by:

Lonny W. Morrow Ed.D.

Jerry Wright

Gerald A. Fowler, Panel Chair

BEFORE THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

	. a minor.	
•	, by and)
	rough his mother,)
V.	HICKMAN MILLS C-1 SCHOOL DISTRICT,) Respondent.)	

RESPONDENT HICKMAN MILLS C-I SCHOOL DISTRICT'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT AND SUGGESTION INSUPPORT

I. INTRODUCTION

This matter should be dismissed because all of the relief requested is either 1) unavailable to Petitioners, or 2) relief which falls outside of. that which play be obtained under the IDEA; nevertheless, the requested relief is something which the District is/has been willing to provide voluntarily. Because the relief is unavailable, is already being offered by Hickman Mill, is outside the scope of the relict which may be granted and/or is something that the District would voluntarily provide, all of the issues to he decided at the hearing arc moot, and Petitioners' Request for a Due Process blearing should be dismissed.

II. ARGUMENT

A. Tri-County Does Not Offer Educational Services

Petitioners' Request for a Due Process Hearing should be dismissed because the

requested relief is simply non-existent. In Petitioners' Request for Due Process, Petitioners have

requested that be placed at "Tri-County," A placement at Tri-County is

simply impossible. Tn-County is not a facility which contracts to provide educational cervices for Hickman Mills' students. See Affidavit of Mike Shields, attached as Exhibit A, at 112. Instead, Tri-County is a program for children with persistent mental health illnesses. Sec Affidavit of Mike Shields, attached as Exhibit A, at 3-4. Tri-County provides mental health services for children, but does not provide a day school program and does not provide services for students outside the district in *which* it is located. See Affidavit of Mike Shields, attached as Exhibit A, at 3 and 5.

A placement at Tri-County for is simply impossible. Hickman Mills cannot place at a facility which does not provide educational services for District Students. Therefore, because the requested relief is non-existent, this Request for Die Process should be dismissed.

B. Hickman Mills Will Allow Petitioners To Meet With The Director of Special Education

Petitioners have also requested to meet with an individual "hire [sic] up" than the IEP Team. Hickman Mills assumes that is requesting a meeting with the individual responsible for supervising the Special Education Program. First, with all due respect, it is not the function of this Panel to compel discussions occur between a parent and a member of the District's administrative staff. Moreover, and more importantly, Hickman Mills is more than willing to accommodate request and allow her to meet with Ms. Jackie Chatman, Director of Special Education, to discuss education.

C. Case *Law*

In a similar matter, a Missouri haring panel dismissed a request for due process where the only issue presented by the parent was a request that the school district provide the student with a program of special education through a private contractual arrangement. In the Matter of

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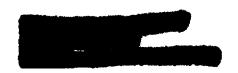
355 -21-00 0.30Am.

Student Petitioner and St. Louis City School District, Division of Special Education, Special Ed Legal at page 8 (Nov. 13, 1997). In the St. Louis case, the district had agreed to provide the private placement, which was the **only issue** to be presented at the due process hearing. Id. at pg. 6. The chairperson of the hearing panel found that, because the school district agreed to provide the relief requested, the only issue presented by the parent in her request for due process *had* been rendered moot. Id., at p. 8. Therefore, the due process request was *dismissed*.

Because "Tri-County" will not provide; educational services to it is simply impossible for to be placed at "Tri-County." Additionally, because Hickman Mills will allow a meeting between Petitioners and the Director of Special Education, Petitioners' requests for relief have been rendered moot. Therefore, Petitioners' Request for a Due Process Hearing, including each and every allegation, should be dismissed.

Respectfully submitted,

Linda J. Salfrank MO ft38119 Trina Ricketts LeRiche MO #4608 Blackwell Sanders Peper Martin LLP 2300 Main Street, Suite 1100 Kansas City, Missouri 64108 (816) 983-8000 (816) 983-8080 (F AX) Attorneys for Respondent



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing way faxed this 13" day of September, 2000, to:

Dr. Gerard A. Fowler Attorney-Mediator-Arbitrator 1349 Grant Road Webster Groves, Missouri 6311 9-4571 Panel Chair

Dr. Lonny Morrow, Professor Truman State University Violate Hall 2346 100 E. Normal Kirksville, Missouri 63501-4221

Dr. Jerry Wright 22 Ridgetop Drive Kirriberling City, Missouri 65686 and hand-delivered to: Attomey for Respondent

BEFORE THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

a minor, by and through is mother,))
Petitioners,)	
V.)	
)	
HICKMAN MILLS C-1 SCHOOL	DISTRICT,	
)		
Respondent.		

AFFIDAVIT Oh' MIKE SHIELDS

Mike Shields, being first duly sworn, states the following:

- I. My name is Mike Shields, and I am a School Psychologist for Hickman Mills C-1 School District.
- 2. At a January 12, 2000 IEP meeting, mother requested that

be placed at Tri-County for educational services. (later contacted Tri-County in order to determine whether it is a facility which provides day school educational serviced I confirmed that Hickman Mills could not contract with Tri-County for a day school placement for

- 3. Tri-County does not have a day school program.
- 4. Tri-County serves children with mental health issues, but it does not provide educational services via a day school program.
- 5. Tri-County sometimes partners with North Kansas City, Missouri School District to provide certain services to those children. Those services, however, are only provided to children within the North Kansas City, Missouri School District.

Mike Shields

STATE OF MISSOURI) SS COUNTY OF Jackson)

Subscribed and sworn to before me this day of September, 2000.

Notary Public My Commission]Expires: ELIZABETH S. McGUIRE Notary Public - Notary Seal STATE OF MLSSOURI saw county My Commission Expries: Jan. 28. 2002